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Indiana Journal of Law and  
Social Equality

Volume 2 | Issue 2

Article 3

Spring 2014

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## Recommended Citation

Carodine, Montré D. (2014) "Presumed Incompetent Too: A Review of the New Must-Have Manual for Women of Color in the Academy," *Indiana Journal of Law and Social Equality*: Vol. 2: Iss. 2, Article 3.

Available at: <http://www.repository.law.indiana.edu/ijlse/vol2/iss2/3>

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## Presumed Incompetent Too: A Review of the New Must-Have Manual for Women of Color in the Academy

Review by Montré D. Carodine\*

PRESUMED INCOMPETENT: THE INTERSECTIONS OF RACE AND CLASS FOR WOMEN IN ACADEMIA. Edited by Gabriella Gutiérrez y Muhs, Yolanda Flores Niemann, Carmen G. González & Angela P. Harris. Logan, Utah: Utah State University Press. 2012.

Few books have had the effect of meeting me right where I am in my own life, and more specifically my career, than *Presumed Incompetent: The Intersections of Race and Class for Women in Academia*.<sup>1</sup> As a result, the book was at times difficult to read and at other times extremely digestible. It is a collection of essays written by more than forty professors, most of whom are women of color. Perhaps the most striking aspect of the book is that it contains consistent themes connecting all of the essays, which were written by a diverse group of scholars across disciplines and also in terms of life experiences that preceded their entrance into the academy. Though I was most drawn to the essays of the law professors, the essays of professors in various other disciplines were just as compelling because their stories parallel those of law professors of color, particularly women. Indeed, the parallels across so many different categories of women and the interconnected themes catapults the book's credibility and make it difficult for racism deniers inside and outside the academy to assail, though of course they will try.

The various themes that tie the narratives together certainly resonate with me, but they are also consistent with discussions that I have had with a number of women of color in the academy. In the introduction, two of the editors of *Presumed Incompetent* identify various themes that thread the different essays together, such as the negotiation of identity in the academy, the "link between agency

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1. PRESUMED INCOMPETENT: THE INTERSECTIONS OF RACE AND CLASS FOR WOMEN IN ACADEMIA (Gabriella Gutiérrez y Muhs, Yolanda Flores Niemann, Carmen G. González & Angela P. Harris eds., 2012).

and structure, the individual and the collective,”<sup>2</sup> and the different challenges raised by the academic culture in which racial hierarchy is pervasive.<sup>3</sup> As a reader of the book and a woman of color teaching law, the overarching themes that stand out the most are the value of the narrative and the complexity of silence.

## I. THE POWER OF THE NARRATIVE

*Presumed Incompetent* unashamedly places value on personal narratives.<sup>4</sup> The editors note that they chose to do so because “[s]torytelling by individuals, when done well, packs an emotional punch and provides the psychological detail necessary to understand a person with very different life experiences.”<sup>5</sup> As a scholar who also values personal narratives, I understand the backlash against this type of scholarship in academia. It has been particularly harsh in the legal academy.<sup>6</sup> What the critics of storytelling in legal scholarship fail to appreciate (or refuse to appreciate) is that women and people of color are literally and figuratively living “race and the law.” In my view, that reality in and of itself, gives credibility to our stories whether or not we choose to tell them. As one scholar put it, the value of stories in critical race theory is that they “highlight the ways in which race and the law shaped the lived experiences of people of color.”<sup>7</sup> Narratives are lost when we rely only on “data” and statistics—not to say that this type of information is not unimportant. To that end, the book also masterfully weaves in essays that do not just include narratives about the authors’ experiences, but also include empirical data.<sup>8</sup> However, to me the power of this book lies in the narrative. Reading *Presumed Incompetent*, I

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2. Angela P. Harris & Carmen G. González, *Introduction* to PRESUMED INCOMPETENT, *supra* note 1, at 1, 4.

3. *See id.* at 3–14.

4. *Id.* at 3.

5. *Id.* (citation omitted).

6. *See, e.g.,* Daniel A. Farber & Suzanna Sherry, *Telling Stories Out of School: An Essay on Legal Narratives*, 45 STAN. L. REV. 807, 815–24 (1993) (asserting that “although many critical race theorists claim a special affinity between storytelling and the voice of color, the connection is unclear” while dismissing the positive attributes of storytelling as insufficient to “to validate the stories as scholarship”); Mark Tushnet, *The Degradation of Constitutional Discourse*, 81 GEO. L.J. 251 (1992) (criticizing certain stories in scholarship as “failures of integrity and judgment”); James D. Bryce, *A Critical Evaluation of the Tax Crits*, 76 N.C. L. REV. 1687, 1687–8 (1998) (dismissing critiques on race and gender as “legal academia’s favorite obsession” and arguing in particular that many critical race law review articles that focus on tax “have a heavy overlay of nonlegal technical material—particularly statistics and economics” with “very little legal analysis”).

7. Rose Cuison Villazor, *The Other Loving: Uncovering the Federal Government’s Racial Regulation of Marriage*, 86 N.Y.U. L. REV. 1361, 1379 n.87 (2011).

8. *See* Harris & González, *supra* note 2, at 3.

came to fully appreciate that narratives regarding the abusive and oppressive nature of the academy for women of color are valuable as therapy for the women who have (or will) experience it, as historical documentation in the struggle for racial and gender equality, and as protest to institutional racism and sexism.

### *A. The Narrative as Therapy*

What becomes clear from the very beginning of the book and throughout it is the brutal psychological and physical damage that is being done to women of color who teach at universities across our country. As the editors note in the introduction, many women of color had “described stress-related physical and psychological symptoms and disorders, including high blood pressure, asthma attacks, autoimmune disorders, significant weight gain, depression, post-traumatic stress disorder, and cancer.”<sup>9</sup>

Professors Leslie Espinoza and Angela Harris have written previously about the power of the narrative in critical race theory scholarship as therapeutic and empowering:

Narrative therapists recognize the need to place individual stories in a cultural context. Likewise, for race theorists, it is important to put cultural stories in an individual context. This becomes a test for reality. Each reiteration of our experience, of our stories, gives us the power of articulating a number of different visions.<sup>10</sup>

They specifically note the importance of the narrative both for the narrator and her audience: “With each telling and retelling, both listener and speaker are better able to construct a meaning for their own individual life and to sort through false visions of our individual stories and of the cultural stories that constrain us.”<sup>11</sup>

One *Presumed Incompetent* author, Professor Adrien Wing, wrote about her prior experience writing an article for a law journal’s special issue on the lives of black women law professors in her essay “Lessons from a Portrait: Keep Calm and Carry On.”<sup>12</sup> Professor Wing describes the experience of writing the piece as “cathartic,” and acknowledges not knowing that at the time there were other black women who felt the same way that she did about “the burdens and benefits of

9. *Id.* at 11.

10. Leslie Espinoza & Angela P. Harris, *Afterword: Embracing the Tar-Baby—LatCrit Theory and the Sticky Mess of Race*, 85 CALIF. L. REV. 1585, 1632–33 (1997) (footnotes omitted).

11. *Id.* at 1633.

12. Adrien Katherine Wing, *Lessons from a Portrait: Keep Calm and Carry On*, in *PRE-SUMED INCOMPETENT*, *supra* note 1, at 356–57.

academia.”<sup>13</sup> In a poignant passage that, frankly, parallels my own personal reaction to *Presumed Incompetent*, Professor Wing also describes her reaction to reading the entire issue of the law journal, which contained articles from other black female law professors:

I decided to read the journal from cover to cover. I cried and cried—big heaving sobs—as I poured through each page and discovered that other black women law professors felt just like me. We were caught between race and gender discrimination, doubted by some of our students and colleagues, and considered not good enough, despite our stellar academic and professional credentials and the multiple burdens that we were juggling. I was affirmed. I was not alone. Many people might not understand our situation, but we were not isolated.<sup>14</sup>

Professor Wing’s experience as both a “speaker” who had told her story in her contribution to the issue and as a “listener” in reading other women’s stories is what Professors Espinoza and Harris meant when they said that the telling and retelling of the narrative helps us to construct our lives and deal with falsities and constraints. I was initially invited to review another book for the *Indiana Journal of Law and Social Equality*. For various reasons, I decided against the first book and came across *Presumed Incompetent* fortuitously at a time when I was dealing with some of my own experiences of subjugation. I have been in the legal academy for about ten years and have had experiences that are eerily similar to those of most of the women in this book. I will save for another day the details, but this book convinces me that our stories must be told in some meaningful format, both for ourselves and for others.

### *B. The Narrative as Historical Documentation*

The richness of the stories told in *Presumed Incompetent* is striking because of the depth with which the authors explore individual human experiences and for the service that they do in documenting an important part of the history of race relations in this country. As I think about the historical significance of this book, I think about the essay by Professor Elvia Arriola, who wrote at the time she was fighting her own tenure battle, which she lost, that she “was working at the very institution that had given birth to the shocking decision in *Hopwood v. University of Texas*

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13. *Id.* at 358.

14. *Id.*

(1996), which had ruled that affirmative-action policies at the law school violated the fourteenth amendment to the US Constitution.”<sup>15</sup> Professor Arriola’s narrative is historically invaluable. Her fight with the faculty for tenure parallels the fight that was going on in the courts and the broader fight that was occurring in Texas and other states across this country—the fight for the inclusion of people of color in American universities and beyond. Decades from now, *Presumed Incompetent* will serve as a preservation of the stories of pioneering women like Professor Arriola, who braved the halls of the bastion of white male privilege that is the academy at a time where racial subordination was still very much the story of American life generally.

In so many ways we, as women of color in the academy, are experiencing what many other racial minorities are also experiencing in their lives and on their jobs, but we are doing it from within these places of privilege. So many other racial minorities experience oppression from places and positions that afford them far less comfortable lives. Remembering that fact should help us all keep our experiences in perspective. Nevertheless, pain is pain, and racism undeniably inflicts pain, as this book demonstrates. The painful stories of women professors of color belong in the pages of history. The slave narratives are powerfully instructive on this point.

The narratives that slaves told provide an important lesson as to the value of telling and re-telling stories of racial oppression. Indeed, abolitionists used slave narratives as a key tool in spreading the anti-slavery movement.<sup>16</sup> The narratives were quite popular as well. Frederick Douglass’ *Narrative of the Life of Frederick Douglass* sold 30,000 copies in the first several years after it was published.<sup>17</sup> William Wells Brown’s *Narrative* and Solomon Northups’ *Twelve Years a Slave* were similarly popular in the first few years after being published.<sup>18</sup> Many former slaves not only wrote their narratives, but also went on the lecture circuit, directly contradicting slave owners’ propaganda campaign to paint slavery as a positive institution for black people.<sup>19</sup> Their powerful narratives simultaneously humanized them and vividly illustrated the inhuman treatment of slaves at the hands of slave owners and others through the institution of slavery:

The slave narratives provided the most powerful voices contradicting the slaveholders’ favorable claims concerning slavery. By their very existence, the narratives demonstrated that African Americans

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15. Elvia R. Arriola, “No hay mal que por bien no venga”: *A Journey to Healing as a Latina, Lesbian Law Professor*, in *PRESUMED INCOMPETENT*, *supra* note 1, at 372, 381–82 (referencing *Hopwood v. Texas*, 78 F.3d 932 (5th Cir. 1996), *cert. denied*, 518 U.S. 1033 (1996), and *abrogated by* *Grutter v. Bollinger*, 539 U.S. 306 (2003)).

16. See, e.g., *Slave Narratives and Uncle Tom’s Cabin*, PBS, <http://www.pbs.org/wgbh/aia/part4/4p2958.html> (Apr. 18, 2014).

17. *Id.*

18. *Id.*

19. *See id.*

were people with mastery of language and the ability to write their own history. The narratives told of the horrors of family separation, the sexual abuse of black women, and the inhuman workload. They told of free blacks being kidnapped and sold into slavery. They described the frequency and brutality of flogging and the severe living conditions of slave life. . . .

The narratives also gave Northerners a glimpse into the life of slave communities: the love between family members, the respect for elders, the bonds between friends. They described an enduring, truly African American culture, which was expressed through music, folktales, and religion. . . . They were the abolitionist movement's voice of reality.<sup>20</sup>

Obviously, women of color in the academy are not slaves. However, we can learn from the examples that survivors of the cruellest institution in American history set for us. We must record our stories. History demands it. Each time we hear someone like Paula Deen, who recently discussed her ancestors' wonderful treatment of their slaves in an effort to sugarcoat slavery and brutal racism,<sup>21</sup> we can refer to the slave narratives as stark reminders of the patent falsity of such notions. Similarly, when racism deniers point to the mere presence of people of color in various institutions (even in the White House) as evidence of post-racialism in the late twentieth and early twenty-first century, astute students of history can point to books like *Presumed Incompetent* to counter that notion.

### *C. The Narrative as Protest*

As others have noted, while the professors who tell their stories of subordination in *Presumed Incompetent* are certainly brave for coming forward to shed light on the treatment of women of color in the academy, I would add to that sentiment by also noting that these women are defiant. By coming forward and describing their painful experiences, we see their defiance of the racial hierarchy in institutions of higher learning. To be sure, these women have stepped out of "their place" by daring to speak about what they have endured, and I find it refreshing and admirable.

Racism and abuse do not simply go away if we do not talk about them. In fact,

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20. *Id.*

21. See Joe Satran, *Paula Deen Defended Southern Attitude Towards Race in Fall 2012*, HUFFINGTON POST (June 21, 2013), [http://www.huffingtonpost.com/2013/06/21/paula-deen-racism\\_n\\_3480720.html](http://www.huffingtonpost.com/2013/06/21/paula-deen-racism_n_3480720.html).



abusers perpetuate their abuse by keeping their victims in check—by keeping them voiceless. As bell hooks writes in the “Militant Resistance” chapter of *Killing Rage*, “[t]o perpetuate and maintain white supremacy, white folks have colonized black Americans, and a part of that colonizing process has been teaching us to repress our rage, to never make them targets of any anger we feel about racism.”<sup>22</sup> “Colonized” black Americans also internalize these lessons and understand that they will lose “the promise of economic well-being” if their rage is not “permanently silenced.”<sup>23</sup>

Thus, the argument against the use of race narratives in critical race scholarship is very troubling. It covertly, and often overtly, sends the message that we should not talk about oppression, that we should not give voice to it. Instead, we should simply endure it, and if we dare speak up, we will be labeled as unintellectual, which is the ultimate insult in the academy.

However, if we, as law professors, do not speak about our own racial subjugation in our scholarship, where exactly do we speak about it and give voice to it? We certainly cannot depend on the court system, in most cases, to remedy racial discrimination for us or most other working Americans. Professor Arriola’s narrative highlights the typical obstacle for someone who attempts to bring a discrimination lawsuit—the jury will likely have attitudes similar to the oppressors.<sup>24</sup> Thus, Professor Arriola’s lawyer advised her against suing the university when she was denied tenure: “Think about the people who will be on the jury; they’re graduates of this university . . . your case has to be perfect.”<sup>25</sup>

So where do we go for healing and resolution? Should we only be restricted to writing about it in our diaries and journals (which can be a great outlet, do not get me wrong) and talking about it to our families, friends, spiritual leaders, and therapists? In other words, should we just keep those things to ourselves and share them within our support circle? For those of us who write about race, should we just be comfortable writing about *other* people (in judicial cases) who deal with discrimination and abuse, as if it does not happen to us too? Indeed, should we simply not write about discrimination at all, as many of us have been advised to do? In the face of a hostile and abusive culture that implicitly and explicitly threatens victims to keep quiet, the women in *Presumed Incompetent* spoke up anyway, not only making them brave, but also giving their narratives an element of protestation—protestation of not only the abuse, but also of the abuser’s tactics to keep us silent.

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22. BELL HOOKS, *KILLING RAGE: ENDING RACISM* 14 (1995).

23. *Id.*

24. See Arriola, *supra* note 15, at 377.

25. *Id.* (alteration in original).



## II. “IF I COULDN’T SAY NOTHING . . .”

The most complex stories in *Presumed Incompetent* are actually not even in the book. The reality is that there could have been many more essays in this work. Indeed, the editors brilliantly addressed the issue of silence among women of color in the academy who choose, for their own reasons, not to tell their stories.<sup>26</sup> When the editors issued their call for papers, there were women who were initially enthusiastic about contributing to this book, but ultimately backed out.<sup>27</sup> Some women were “too wounded spiritually and psychologically to write about their experiences.”<sup>28</sup> Some feared that they would be retaliated against and “were not prepared to become pariahs.”<sup>29</sup> Indeed, one woman noted the “vilification and rejection that her home institution had lavished on a highly qualified applicant who had published an article detailing the bias she had experienced as a woman of color at another university.”<sup>30</sup> That would-be contributor reported that her faculty had dismissed her as a liar and refused to appoint her to a faculty position.<sup>31</sup>

Other would-be contributors could not fully recount their stories without disclosing the experiences of others who were already “burdened by institutional inequities.”<sup>32</sup> Some were afraid of being labeled as “un-intellectual,”<sup>33</sup> a label which, as I discussed above, has been placed on critical race theorists who use narratives in their scholarship. There were also various other reasons that potential contributors did not publish their stories, but the reasons that I highlighted seem to be the most likely to keep oppressed faculty members (and oppressed employees generally) silent.

As a reader, I was naturally curious about the stories that were not included, and the editors left me with the distinct impression that some of the most disturbing and compelling stories were indeed stories that were not told. In some ways that is truly unfortunate, but also it underscores the depth of the problem that this book explores. Thus, for me the “Note on the Silences Shouting from Within This Anthology,”<sup>34</sup> though it only spanned a few pages at the end of the introduction of the book, was the most powerful passage in the entire work.

As I think about silence in the face of oppression, I am also reminded of Professor Angela Onwuachi-Willig, who recounts in her essay for *Presumed Incompetent* her discomfort with her own “silence” in discussing *Rogers v. American*

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26. See Harris & González, *supra* note 2, at 10–14.

27. See *id.* at 11.

28. *Id.*

29. *Id.*

30. *Id.*

31. *Id.*

32. *Id.*

33. *Id.*

34. *Id.* at 10–14.

*Airlines, Inc.*,<sup>35</sup> an employment discrimination case in which a black woman sued her employer for prohibiting her from wearing her hair in braids.<sup>36</sup> Professor Onwuachi-Willig wrote:

I wore and still wear [my hair] in long, thin locks down my back. . . . I discovered that I was nervous about voluntarily making myself both a subject and object—of being both highly visible and completely invisible at the same time: being visible as a piece of evidence on display but completely invisible in terms of understanding about my hair, my being. Because of this fear (coupled with my usual worries as a black female professor), I left many questions unasked, questions that I believed that judges and other lawyers had left unasked and unevaluated for many years.<sup>37</sup>

Professor Onwuachi-Willig later in the semester got one of those “rare” opportunities to amend her previous choice to stay quiet.<sup>38</sup> She discussed her theory about the way that some black hairstyles ought to be understood in the context of race discrimination jurisprudence. In doing so, she was fully aware that she likely became “evidence” or the “subject,” but she was able to persuade students who before had been unable to understand the case from the perspective of African Americans.<sup>39</sup> She got a second chance.<sup>40</sup> Perhaps, in fact, it is better sometimes to be silent and wait for later opportunities to speak. Our stories are far from being complete anyway.

I grew up in a small, segregated Louisiana town. I went to a traditional black, Baptist church (there were spoken and unspoken rules in my hometown that black and white people just did not go to church together, except when white politicians visited black churches around election time and in some other very limited situations). For me, church was a place where we learned about God, developed a relationship with Him, and sought His guidance for dealing with life’s trials; racial oppression and hostility certainly being some of them. The theology in black churches helped to produce some of the most amazing music in the world. In particular, there is a song that is often sung a cappella by the entire congregation. During this song, someone in the choir or the congregation would spontaneously sing, “If I couldn’t say nothing, I’ll just wave my hand.”

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35. 527 F. Supp. 229 (S.D.N.Y. 1981).

36. Angela Onwuachi-Willig, *Silence of the Lambs*, in PRESUMED INCOMPETENT, *supra* note 1, at 142, 146–48.

37. *Id.* at 148.

38. *Id.*

39. *Id.*

40. *Id.*

You know as you are singing the song that there are mothers and fathers who have lost children, children who have lost parents, and generally people who have experienced some unspeakable pain. Hence the brilliance of that lyric “If I couldn’t say nothing.” You are able to give “voice” to the pain without speaking at all. The note on the would-be contributors in *Presumed Incompetent* is the figurative hand wave for those women, raised on their behalf by the editors.

While many of us female professors of color are not able, for whatever reason, to verbalize and write our stories, the contributors of *Presumed Incompetent* should know that they have struck a chord with this trailblazing work. Perhaps I will not ever tell the story of my first ten years in the academy after all, though it is indeed just as rich and compelling as the essays in this book. However, these brave, defiant professors in *Presumed Incompetent* should at least know that I, along with many of our sisters, am waving my hand.